

DUNNINGTON, BARTHOLOW & MILLER LLP

MARVIN M. BROWN
RAYMOND J. DOWD
JOHN T. DUNLAP
GEORGE W. GOWEN
MICHAEL J. KOPCSAK
STEVEN E. LEWIS
ROBERT T. LINCOLN
ALBERT L. LINGELBACH
THOMAS V. MARINO
JOSEPH MICHAELS IV
C. FREDERICK ROGGE, III
JOHN W. SHROYER
CAROL A. SIGMOND
LOUIS E. TEITEL

ATTORNEYS AT LAW
477 MADISON AVENUE
NEW YORK, N. Y. 10022

FREDERICK W. LONDON
FRANCIS J. MOONEY, JR.
JOHN I. FARRY
OF COUNSEL

[Signature]
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TELEPHONE: (212) 682-8811
FACSIMILE: (212) 661-7769
DBM@DUNNINGTON.COM
WWW.DUNNINGTON.COM

February 27, 2008

BY HAND

Hon. Debra C. Freeman
U.S. Magistrate Judge
U.S. District Court
500 Pearl Street Courtroom 17A
New York NY 10007

LOM
DAB FILED: 2/28/08

ML *CRSED*
Re: *Agatha Brown v. Sixteen, Inc. 02 cv 4630 (DAB)*
Motion to Quash Subpoena

Dear Judge Freeman,

We were recently retained as trial counsel by plaintiff Agatha Brown. We are writing to request an extension of the time in which to conduct discovery. We have contacted opposing counsel who opposed granting additional time in which to conduct discovery. For the reasons set forth below, we respectfully submit that there is good cause to grant an additional 30 days in which to finalize discovery and an additional 30 days to respond to the pending motion to quash the subpoena of David Ehrlich. The current discovery cutoff is February 29, 2008 and we understand that numerous previous extensions have been granted.

We have completed the deposition of defendant Sixteen Inc. We have also conducted document discovery and have a number of outstanding issues that must be resolved regarding Sixteen Inc.'s failure to produce responsive documentation. We have recently received the deposition transcripts and hope to work out remaining disputes without court intervention.

We have also completed the deposition of Agatha Brown and produced all documentation.

There is pending a motion to quash the subpoena of David Ehrlich, a member of the firm of Fross Zelnich Lehrman & Zissu, P.C.. This is a trademark infringement action involving the use of the mark AGATHA, a trademark owned by Ms. Brown. According to Ms. Brown's deposition testimony, Mr. Ehrlich represented Ms. Brown in applying for the mark AGATHA. During Mr. Ehrlich's representation of Ms. Brown, Michel Quiniou, a then-principal of defendant Sixteen, Inc., attempted to license the mark

AGATHA. After negotiations in which Ehrlich represented Ms. Brown, Sixteen Inc. refused to license the mark AGATHA. According to Ms. Brown, without her knowledge or consent, Mr. Ehrlich started working for defendant Sixteen Inc., and in that capacity assisted Sixteen Inc. in its infringement of the mark AGATHA.

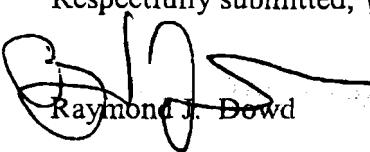
Mr. Ehrlich's testimony is relevant to the issue of the willfulness of Sixteen Inc.'s infringement of the mark AGATHA, the commencement date of the infringement. Ms. Brown is also missing copies of her legal bills from Fross Zelnick, which are relevant to the damages and attorneys fees that she is entitled to recover under the Lanham Act. We have communicated with Mr. Zissu and he is willing to work with us to attempt to narrow the disputed issues raised by the motion to quash. In the end, we may need rulings from the court but would appreciate the opportunity to attempt to work these issues out.

As set forth in Mr. Zissu's Declaration, we attempted to give him additional time on the return date of the deposition. Unfortunately, there was a miscommunication regarding our respective schedules, regarding the nature of the objections to the subpoena, and regarding our unilateral ability to grant an extension of time without the consent of both Mr. Sunshine and the court. As Mr. Zissu's Declaration accurately reflects, we both had scheduling conflicts, and this led to the miscommunication. I am travelling to Vienna and finalizing discovery in relation to a Holocaust looted art case that is scheduled for trial in the Southern District of New York later this Spring.

We are confident that given the opportunity, the issues may at least be narrowed and further briefed to reduce any burdens on Fross Zelnick, yet provide the discovery to which Ms. Brown is clearly entitled.

Based on the foregoing, we respectfully request an additional 30 days in which to resolve outstanding discovery issues, or, in the alternative, to bring such issues to the court's attention for rulings.

Respectfully submitted,


Raymond J. Dowd

Cc: Via Email

David Sunshine, Esq.
Attorney for Defendant Sixteen, Inc.

Roger Zissu, Esq.
Attorney for Third Party Fross Zelnick Lehrman & Zissu, P.C.

Granted. No further extensions.
SO ORDERED: DATE: 2/28/08

Debra Freeman
DEBRA FREEMAN
UNITED STATES MAGISTRATE JUDGE